

Private foundations; repayment of loan from corpus. A private foundation that made an interest-free loan from corpus to a public charity in a year in which its distribution requirements had been met and that continued to meet the distribution requirements during the five-year adjustment period without use of the excess of qualifying distributions created by the loan is not required to include in its gross income repayments on the loan and may return the payments to corpus.

Advice has been requested by a private foundation whether a repayment of a loan under the circumstances described below must be included in gross income under section 4942(f)(2)(C)(i) of the Internal Revenue Code of 1954.

'In 1971 the foundation, having already satisfied its distribution requirements under section 4942 of the Code for its current year, made an interest-free loan out of its corpus to a public charity for a purpose described in section 170(c)(2)(B) of the Code. From 1971 to 1977 the foundation continued to meet its distribution requirements by the current distribution of income.

As a result, no part of the excess of qualifying distributions created by the loan was used to reduce the foundation's distributable amount during the five year adjustment period provided under section 4942(i) of the Code. The first repayment of the loan was made in 1977.

'Held, the loan is not considered to have been 'taken into account' as a qualifying distribution within the meaning of section 4942(f)(2)(C)(i) of the Code since the loan was not used to reduce the amount that the foundation was required to distribute in any year. Accordingly, the repayment is not included in gross income and may be returned to corpus. However, had any part of the excess of qualifying distributions created by the loan been used to reduce the foundation's distributable amount in any year, repayments would have been included in gross income to that extent.